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**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12 **KIMBERLY LYNN FREY**
aka KIMBERLY LYNN GRIGGS-FREY
13 26027 Round Up Way
Apple Valley, CA 92308
14
15 Vocational Nurse License No. VN 200609
16 Respondent.

Case No. VN-2007-2087

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
21 Technicians, Department of Consumer Affairs (Board).

22 2. On or about August 14, 2002, the Board issued Vocational Nurse License No. VN
23 200609 to Kimberly Lynn Frey aka Kimberly Lynn Griggs-Frey (Respondent). The Vocational
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire in January 31, 2014 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2875 authorizes the Board to discipline a licensed vocational nurse for any reason provided in Article 3 (section 2875 *et seq.*) of the Vocational Nursing Practice Act.

STATUTES

5. Section 118, subdivision (b), provides that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1, the Board may renew an expired license at any time within four years after its expiration.

6. Section 2878 authorizes the Board to discipline licensees for certain misconduct:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • •

"(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee. . . ."

7. Section 2878.5 authorizes discipline for substance-abuse related misconduct:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

• • • •

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in subdivision (b)."

REGULATIONS

8. In pertinent part, California Code of Regulations, title 16, section 2518.5 defines the scope of vocational nursing practice to include performing “services requiring technical and manual skills which include the following: . . . (b) Provides direct patient/client care by which the licensee: . . . (2) Administers medications . . .”

1 9. California Code of Regulations, title 16, section 2518.6 sets performance standards
2 for vocational nurses:

3 “(a) A licensed vocational nurse shall safeguard patients'/clients'
4 health and safety by actions that include but are not limited to the following: . . .

5 (2) Documenting patient/client care in accordance with
6 standards of the profession . . .

7 (c) A violation of this section constitutes unprofessional conduct for
8 purposes of initiating disciplinary action.”

9 **COST RECOVERY**

10 10. Section 125.3 provides that the Board may request the administrative law judge to
11 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
12 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

14 11. Dilaudid is a trade name for Hydromorphone, an opiate, which is classified as a
15 Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision
16 (b)(1), and is a dangerous drug within the meaning of section 4022.

17 12. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code
18 section 11055(b)(1)(L), and is a dangerous drug within the meaning of section 4022.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Falsifying Hospital Records to Obtain Controlled Substances)**

21 13. Respondent is subject to disciplinary action under sections 2878, subdivision (a),
22 and 2878.5, subdivision (e), on the grounds of unprofessional conduct, in that on or about
23 February 29, 2008, while on duty as a licensed vocational nurse, Respondent falsified or made
24 grossly incorrect or grossly inconsistent entries in hospital and patient records to obtain morphine
25 or Dilaudid or both, controlled substances and dangerous drugs, without valid prescriptions, as
26 follows:

27 a. On or about February 29, 2008, Respondent was employed by Associated Health
28 Professionals, a nursing staff registry and assigned as a licensed vocational nurse for her first day
of work at Community Hospital of San Bernardino.

1 ///

2 Treatment of Patient A

3 b. At 11:00 a.m. an emergency room physician ordered that Patient A¹, a patient with a
4 knee injury, receive 2 milligrams of morphine sulfate intravenously and 4 milligrams of Zofran
5 by mouth tablet.

6 c. At 11:10 am, Respondent withdrew 4 milligrams of morphine from the Omnicell
7 machine² for Patient A. 10 minutes later she documented that 2 milligrams were administered to
8 the patient, but failed to account for either administering or wasting the remaining 2 milligrams.
9 She also documented administering the Zofram to the patient.

10 d. At 11:27 am, without a physician's order, Respondent withdrew 2 milligrams
11 Dilaudid from the Omnicell for Patient A and failed to account for or document its use in any
12 hospital records.

13 Treatment of Patient B

14 e. That day, at 5:00 pm an emergency room physician ordered that patient B, a patient
15 with acute cholecystitis, a sudden inflammation of the gallbladder, receive .5 milligrams of
16 Dilaudid intravenously, in addition to other medications.

17 f. At 5:20 pm, Respondent withdrew 2 milligrams of Dilaudid from the Omnicell
18 machine for Patient B. She documented administering .5 milligrams at 5:10 pm, but failed to
19 account for either administering or wasting the remaining 1.5 milligrams.

20 g. At 6:00 pm, a physician ordered 1 milligram of Dilaudid intravenously every 4 hours
21 as needed for pain for patient B, along with 1 tablet Vicodin every hour as needed.

22 h. At 6:08 p.m., Respondent withdrew 2 milligrams of Dilaudid from the Omnicell
23 machine for Patient B, but did not document its administration to the patient or its wastages.

24 Treatment of Patient C

25 ¹ All patient names are omitted to preserve patient privacy.

26 ² "Omnicell" is a computerized single dose medication dispensing machine. The user
27 enters a unique user identified, password and / or thumbprint scan in order to access and dispense
28 medication from the machine. The machine records the user name, patient name, medication,
dose, date and time of the dispensing/withdrawal. The Omnicell is integrated with hospital
pharmacy inventory management systems.

1 i. At 3:04 pm, Respondent withdrew 2 milligrams Dilaudid without a physician order
2 from the Omnicell for Patient C, a patient with acute bronchitis, and failed to account for or
3 document its use in any hospital records.

4 j. Respondent failed to account for the administration or wastage of the 2 milligrams of
5 Dilaudid in any hospital records.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Illegal Possession of Controlled Substances)**

8 14. Respondent is subject to disciplinary action under sections 2878, subdivision (a),
9 and 2878.5, subdivision (a), on the grounds of unprofessional conduct, in that on or about
10 February 29, 2008, while on duty as a licensed vocational nurse at Community Hospital of San
11 Bernardino, Respondent obtained or possessed Dilaudid or morphine or both, dangerous drugs
12 and controlled substances, without a valid prescription for either. Complainant refers to and by
13 this reference incorporates the allegations set forth above in paragraph 13 and its subparagraphs
14 as though set forth fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Failure to Document Patient Care)**

17 15. Respondent is subject to disciplinary action under sections 2878, subdivision (a), and
18 California Code of Regulations, title 16, sections 2518.6, subdivision (a)(2), and 2518.5,
19 subdivision (b)(2), on the grounds of unprofessional conduct, in that on or about February 28,
20 2008, while on duty as a licensed vocational nurse at CHSB, Respondent failed to properly
21 document patient care in accordance with the standards of the profession, violating her duty to
22 safeguard patients' health and safety in her administration of medications. Respondent's failure
23 to document administration of narcotics either showed the patients were not receiving the
24 medications they were prescribed or it showed the patients received the prescribed medication
25 from her without having that noted in their patient charts, either of which could result in patient
26 harm.

27 16. Complainant refers to and by this reference incorporates the allegations set forth
28 above in paragraphs 13 and 14, inclusive, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Vocational Nurse License No. VN 200609, issued to Kimberly Lynn Frey;
2. Ordering Kimberly Lynn Frey to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: **NOV 05 2012**



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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